

AMENDED IN SENATE APRIL 12, 2004

SENATE BILL

No. 1462

Introduced by Senator Kuehl

February 19, 2004

An act to add ~~Title 7.15 (commencing with Section 66550) to Sections 56161 and 65097 to, and to add Title 7.15 (commencing with Section 66550) to, the Government Code, and to add Section 33327.5 to the Health and Safety Code~~, relating to regional planning.

LEGISLATIVE COUNSEL'S DIGEST

SB 1462, as amended, Kuehl. Southern California Military Greenway Commission.

(1) The Planning and Zoning Law requires the land use element to consider the impact of new growth on military readiness activities carried out on military bases, installations, and operating and training areas, when proposing zoning ordinances or designating land uses covered by the general plan for land or other territory adjacent to those military facilities, or underlying designated military aviation routes and airspace. Existing law, with respect to the open-space element, defines open-space land to include areas adjacent to military installations, military training routes, and restricted airspace.

The

This bill would create the Southern California Military Greenway Commission comprised of Los Angeles, Ventura, Kern, ~~and~~ Kings, Imperial, Riverside, San Bernardino, and San Diego Counties and consisting of ~~17~~ 19 specified voting members. The bill would authorize the commission, ~~in consultation with appropriate state agencies and ex officio members and advisory committees~~ among other things, to promote, facilitate, and administer the acquisition of voluntary private

and public conservation easements or other voluntary transfers of fee or lesser interests in real property.

~~The bill would require the commission, among other things, to review proposed land uses within member counties that may affect military flight paths, as specified, and would require these counties, upon receipt of notification by the commission, to attempt to resolve with the aid of the commission, any identified issues of proposed land use that are inconsistent with the purposes for which the commission is established—~~*research, prepare, publish, and disseminate public information regarding the best practices to avoid conflicts between civilian land uses and special use airspace, and to identify the exact location of each special use airspace within the commission's jurisdiction. The bill would require the commission, on or before July 1, 2006, and the legislative body and planning agency of each county and city within its territorial jurisdiction, state agencies, departments, boards, or commissions, the University of California, and the California State University to participate in a specified conflict resolution process or mediation proceedings to determine whether a specified land use proposal or a proposal to acquire real property or any interest in real property may significantly and adversely diminish the effectiveness of the military's use of the special use airspace.*

The bill would also provide that if the commission determines that a final proposal may still significantly and adversely diminish the effectiveness of the military's use of a special use airspace, the proposal may only be approved by an entity's governing body if the decision meets specific criteria. By increasing the duties of local planning officials, the bill would create a state-mandated local program.

~~The bill would also authorize the commission to apply for and accept federal grants or other federal funds~~*financial assistance from any public agency or private entity and receive gifts, donations, rents, royalties,—state funds derived from state or local bond sales,—the proceeds of taxes or funds from any other state revenue sources, or any other financial support from public or private sources—federal, state, or local funds. The bill would create the Southern California Military Greenway Fund as a special fund in the State Treasury and would require that moneys deposited in the fund be allocated to the commission upon appropriation by the Legislature.*

The bill would require the commission, on or before March 1, 2005, and each March 1 thereafter, to prepare an annual budget and to apportion among each county within its territorial jurisdiction the



amounts to be transmitted to the fund to pay for the commission's operations. The bill would authorize the board of supervisors of each county to collect a fee on the use of real property pursuant to a specified fee schedule as an alternative to transmitting funds to the commission.

The bill would also require the commission on or before August 1, 2007, and each odd-numbered thereafter to prepare and distribute a specified report.

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Title 7.15 (commencing with Section 66550) is~~
2 ~~added to the Government Code, to read:~~
3
4 ~~TITLE 7.15. THE SOUTHERN CALIFORNIA MILITARY~~
5 ~~GREENWAY COMMISSION~~
6
7 ~~CHAPTER 1. FINDINGS AND DECLARATIONS OF POLICY~~
8
9 ~~66550. The Legislature finds and declares all of the~~
10 ~~SECTION 1. Section 56161 is added to the Government Code,~~
11 ~~to read:~~

1 56161. *With respect to any parcel located beneath a special*
2 *use airspace, as defined in Section 66552, within the territorial*
3 *jurisdiction of the Southern California Military Greenway*
4 *Commission, whenever a commission receives an application to*
5 *adopt or amend a sphere of influence, an application to approve*
6 *a change of organization or reorganization, or a proposal filed by*
7 *a local agency pursuant to Section 56133 for a local agency that*
8 *provides nonagricultural water, sanitary sewers, structural fire*
9 *protection, or roads, the commission shall notify the Southern*
10 *California Military Greenway Commission, as required by Title*
11 *7.15 (commencing with Section 66550).*

12 SEC. 2. *Section 65097 is added to the Government Code, to*
13 *read:*

14 65097. *With respect to any parcel located beneath a special*
15 *use airspace, as defined in Section 66552, within the territorial*
16 *jurisdiction of the Southern California Military Greenway*
17 *Commission, whenever a planning agency receives an application*
18 *to adopt or amend a general plan, specific plan, or zoning*
19 *ordinance, or an application for a development project, the*
20 *planning agency shall notify the Southern California Military*
21 *Greenway Commission, as required by Title 7.15 (commencing*
22 *with Section 66550).*

23 SEC. 3. *The Legislature finds and declares all of the*
24 *following:*

25 (a) In 2002, the Legislature found that California contains an
26 integrated system of military installations and special use airspace,
27 connected by low-level flight corridors, that supports a key
28 foundation for our nation's security. This integrated system
29 provides for the training of military personnel, as well as the
30 research, development, testing, and evaluation of military
31 hardware. These findings are contained in Section 1 of Chapter
32 971 of the Statutes of 2002 (Senate Bill 1468).

33 (b) The military training routes that form the linkages of this
34 integrated system are under considerable pressure from urban and
35 other development in key portions of southern California. These
36 development issues have arisen in the following two states where
37 a significant portion of those states' economic activity comes from
38 military air installations:

39 (1) The State of Florida has created the "Northwest Florida
40 Greenway" program to protect open space below military flight

paths. According to the Florida Department of Environmental Quality, “The Northwest Florida Greenway” establishes a 750,000 acre, 100-mile corridor, which follows the flight path of military aircraft on training exercises. That particular greenway is intended to preserve environmentally sensitive areas, sustain existing military lands and airspace, maintain the economic viability of forest lands, and provide recreation.

Bush

Florida Governor Jeb Bush stated, “Florida is among the first in the nation to join forces with the Department of Defense to increase security for important military installations while at the same time protecting valuable natural resources. This groundbreaking partnership affirms Florida’s resolute commitment to the environment and our nation’s military.”

(2) The State of Texas has also recognized the importance of protecting military training routes. In 2003, legislation signed by the Texas Governor required that open-space elements include a restricted airspace element that creates buffer zones, if needed, between the defense base and the defense community, and a military training route element that identifies existing routes and proposes plans for additional routes, if needed.

The following language from legislation adopted in Texas establishes a compelling argument for California to consider land use options that work to preserve military airspace flightpaths: “If a defense community determines that an ordinance, rule, or plan proposed by the community may impact a defense base or the military exercise or training activities connected to the base, the defense community shall seek comments and analysis from the defense base authorities concerning the compatibility of the proposed ordinance, rule, or plan with base operations. The defense community shall consider and analyze the comments and analysis before making a final determination relating to the proposed ordinance, rule, or plan.”

(c) Long-term, anticipatory measures by Texas and Florida, together with the significant development pressures existing adjacent to, and underlying California military flight path training areas, may disadvantage California in terms of maintaining military bases and contracts within the state. The Legislature is concerned about the possible closure or relocation of military missions outside the state and the possibility that other states enjoy

1 an advantage because of their long-term programs to protect
2 military training.

3 ~~(d) The Defense Department's proposed Base Realignment and~~
4 ~~Closure (BRAC) criteria has specific relevance to the issue of~~

5 *(d) The Department of Defense is interested in long-term*
6 *programs to protect military training in California. Those criteria*
7 *state that consideration will be given to "the availability and*
8 *condition of land, facilities, and associated airspace (including*
9 *training areas suitable for maneuver by ground, naval, or air forces*
10 *throughout a diversity of climate and terrain areas and staging*
11 *areas for the use of the Armed Forces in homeland defense*
12 *missions) at both existing and potential receiving locations."* It is
13 therefore necessary to create a program to provide a level of
14 protection to military airspace similar to the programs in Florida
15 and Texas.

16 (e) The Environmental Action Plan prepared by the
17 Governor's Environmental Policy Task Force recognizes, as do
18 the States of Florida and Texas with respect to their land uses, that
19 "the military is a key sector of the California economy and
20 environmental stewardship, and California open space resources
21 are vital to the military's national security mission. In evaluating
22 alternatives for California's future, an evaluation should consider
23 how a land use pattern will impact resources necessary for the
24 military's national security mission. These include preservation of
25 ~~California's rural landscape and other open spaces."~~ *In amending*
26 *California's rural landscape and other open spaces."*

27 (f) *In amending* Section 65302 of the Government Code by the
28 enactment of Chapter 971 of the Statutes of 2002, the Legislature
29 found that direct military expenditures in California amount to
30 nearly \$30 billion annually and that protection of this integrated
31 system of military installations and special use airspace is in the
32 public interest.

33 ~~(f) Kern, Kings, Los Angeles, and Ventura Counties all contain~~

34 (g) *Imperial, Kern, Kings, Los Angeles, Riverside, San*
35 *Bernardino, San Diego, and Ventura Counties all contain major*
36 *military installations highly dependent on the existence of this*
37 *integrated system of military installations and military training*
38 *routes. Each of these counties has located all or partially within its*
39 *boundaries major military airfields and additional research,*
40 *development, test, and evaluation facilities for aircraft and*

1 airborne weapons systems. These facilities include, but are not
2 limited to, Edwards Air Force Base, China Lake Naval Air
3 Weapons Station, Lemoore Naval Air Station, and Point Mugu
4 Naval Air Station. According to the Department of the Navy, in a
5 letter from Rear Admiral J.L. Betancourt, Commander of the Navy
6 Region Southwest, headquartered in San Diego and sent to then
7 Governor-elect Arnold Schwarzenegger on October 21, 2003,
8 these and similar facilities “are essential to ongoing operations”
9 and are “crucial to maintaining highly perishable pilot skills
10 necessary for safe execution ... of a combat mission.”

11 ~~(g)~~—

12 (h) Direct military spending in Ventura County was \$1.148
13 billion and included 11,203 military and civilian jobs. The
14 Legislature finds that the direct military spending in Kings County
15 was 13.5 percent of the county’s total personal income, and
16 civilian and military jobs were 15.2 percent of the total number of
17 jobs in the county. One in six jobs in Kings County is therefore
18 directly attributable to the military. In both of these counties
19 consideration of economic multipliers makes the military
20 spending even more substantial.

21 ~~(h)~~—

22 (i) Land use decisions made in other jurisdictions that would
23 affect the ability of the military to use military training routes and
24 airspace may result in direct threats to the long-term viability of
25 ~~military installations in Kern, Kings, Los Angeles, and Ventura~~
26 *military installations in Imperial, Kern, Kings, Los Angeles,*
27 *Riverside, San Bernardino, San Diego, and Ventura* Counties. The
28 Legislature therefore finds that the creation of a Southern
29 California Military Greenway Commission that will plan and
30 provide oversight of certain land use decisions is necessary while
31 maintaining, to the maximum extent feasible, county control over
32 land use decisions in each of the counties comprising the
33 commission.

34
35 CHAPTER 2. ~~THE COMPOSITION OF THE COMMISSION~~

36
37 ~~66555. (a) The Southern California Military Greenway~~
38 ~~Commission is hereby created comprising Los Angeles, Ventura,~~
39 ~~Kern, and Kings Counties and consisting of 17 voting members,~~
40 ~~as follows:~~

~~(1) One member of the board of supervisors selected from each of the four counties comprising the commission.~~

~~(2) One elected city council member from each county selected by city selection committees from regional and area councils of government.~~

~~(3) The Director of the Office of Planning and Research, or a designee.~~

~~(4) The Director of the California Military Department, or a designee.~~

~~(5) The Director of the California Department of Transportation, or a designee.~~

~~(6) The Director of the Office of Military Support, its successor, or a designee.~~

~~(7) The Secretary of Resources, or a designee.~~

~~(8) Two members of the public appointed by the Governor who shall represent the military's interest in sustaining the operation of Department of Defense facilities in southern California.~~

~~(9) One member of the public appointed by the Senate Committee on Rules who shall represent the interests supportive of maintaining open space below military flight paths in southern California.~~

~~(10) One member of the public appointed by the Speaker of the Assembly who shall represent the nonmotorized recreational interests of the public on land below military flight paths in southern California.~~

~~(b) Ex officio nonvoting members of the commission shall include three representatives of the Department of Defense, or their designees, each of whom shall serve a four-year term and each of whom may be reappointed.~~

SEC. 4. Title 7.15 (commencing with Section 66550) is added to the Government Code, to read:

*TITLE 7.15. THE SOUTHERN CALIFORNIA MILITARY
GREENWAY COMMISSION*

CHAPTER 1. GENERAL PROVISIONS

66550. (a) The Legislature finds and declares all of the following:

1 (1) *Military bases and special use airspace are important to the*
2 *California economy.*

3 (2) *The military needs special use airspace to train.*

4 (3) *The development of civilian land uses underneath special*
5 *use airspace may significantly and adversely diminish the*
6 *effectiveness of the military's use of this airspace.*

7 (4) *Creating a process to identify, avoid, and mitigate threats*
8 *to special use airspace is essential to California's public health,*
9 *safety, and welfare.*

10 (b) *Accordingly, the Legislature finds and declares that it is the*
11 *policy of the State of California to:*

12 (1) *Protect special use airspace from civilian land uses located*
13 *beneath this airspace that are incompatible with the military's use*
14 *of this airspace.*

15 (2) *Respect property owners' constitutional rights by retaining*
16 *economically viable uses of real property located beneath special*
17 *use airspace.*

18 (3) *Identify civilian land uses located beneath special use*
19 *airspace that are incompatible with the military's use of this*
20 *airspace.*

21 (4) *Create processes to avoid and mitigate civilian land uses*
22 *beneath special use airspace that are incompatible with the*
23 *military's use of this airspace.*

24 (5) *Create processes to resolve conflicts between civilian land*
25 *uses beneath special use airspace and the military's use of this*
26 *airspace.*

27 66551. *There is hereby created the Southern California*
28 *Military Greenway Commission.*

29 66552. *As used in this chapter:*

30 (a) *"Building" means any structure built for the support,*
31 *shelter, or enclosure of persons, animals, chattels, or property of*
32 *any kind.*

33 (b) *"Commission" means the Southern California Military*
34 *Greenway Commission.*

35 (c) *"Entity" means any public agency that is required to notify*
36 *the commission pursuant to Section 66572.*

37 (d) *"Parcel" means any area of land that is represented by an*
38 *assessor's parcel number.*

39 (e) *"Special use airspace" means any area identified by the*
40 *Federal Aviation Administration as special use airspace pursuant*

1 to Part 73 of Title 14 of the Code of Federal Regulations,
2 including, but not limited to, military operating areas, military
3 training routes, and restricted areas.

4 (f) "Territorial jurisdiction" of the commission means the
5 exterior boundaries of the Counties of Imperial, Kern, Kings, Los
6 Angeles, Riverside, San Bernardino, San Diego, and Ventura.

7
8 CHAPTER 2. GOVERNANCE
9

10 66555. (a) The commission has 19 voting members,
11 appointed as follows:

12 (1) One member of the board of supervisors appointed by the
13 board of supervisors of each county within the commission's
14 territorial jurisdiction.

15 (2) The Adjutant General, Military Department, or a designee.

16 (3) The Director of the Office of Military Base Retention and
17 Reuse, or a designee.

18 (4) The Secretary of Business, Transportation and Housing, or
19 a designee.

20 (5) The Secretary of the Resources Agency, or a designee.

21 (6) The Director of the Office of Planning and Research, or a
22 designee.

23 (7) Two public members appointed by the Governor to
24 represent the interests of maintaining military bases and special
25 use airspace in southern California. At least one of these
26 appointees shall be a mayor or a city council member of a city
27 located within the commission's jurisdiction.

28 (8) Two public members appointed by the Senate Committee on
29 Rules to represent the interests of maintaining open space below
30 special use airspace in southern California.

31 (9) Two public members appointed by the Speaker of the
32 Assembly to represent the interests of maintaining nonmotorized
33 recreational uses below special use airspace in southern
34 California.

35 (b) The Governor shall invite the United States Secretary of
36 Defense to designate four representatives who may serve as
37 nonvoting members of the commission.

38 66556. The term of office of the members shall be for four
39 years. Vacancies shall be filled by the appointing authority within
40 30 days of the vacancy. Nonattendance by a member, or his or her

designee, at two consecutive regularly scheduled meetings shall create a vacancy.

66557. (a) Members shall serve without compensation, except for per diem.

~~(b) All members of the commission are subject to Title 9 (commencing with Section 81000).~~

(b) All voting members of the commission are subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

66558. The commission shall elect from its own *voting* members a chairperson and vice chairperson whose terms of office shall be two years and who may be reelected. If a vacancy occurs in either office, the commission shall fill the vacancy for the ~~expired~~ *unexpired* term.

66559. (a) The commission shall meet at least quarterly. The time and place of the first meeting shall be chosen by the Governor. Thereafter, the commission shall establish its own schedule and ~~place of meeting. However, all meetings shall occur in one of the counties that comprise the commission.~~

~~(b) All commission meetings shall be open to the public, as required by law.~~

~~(c) place of meeting. The commission shall hold its meetings within its territorial jurisdiction.~~

(b) The commission shall comply with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

(c) The commission shall comply with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2).

(d) A majority of the voting members of the commission shall constitute a quorum for the transaction of the business of the commission. A majority vote of the voting members present shall be required to take action with respect to any matter unless otherwise specified in this section. The vote of each member shall be individually recorded.

~~(d)~~

(e) The commission shall adopt its own rules, regulations, and procedures necessary for its organization and operation.

66560. The commission may appoint military, open-space, recreational, or other advisory committees for the purpose of

1 providing the commission with timely comments, advice, and
2 information. The commission may appoint committees from its
3 own membership. It may seek advice and recommendations from
4 advisory committees appointed by local governments which are
5 involved in subject matters affecting the purpose for which the
6 commission is established.

7 ~~66561. The Office of Planning and Research shall maintain~~
8 ~~the public records of the commission and shall make those records~~
9 ~~available to the public consistent with state law.~~

10
11 ~~CHAPTER 3. POWERS AND DUTIES OF THE COMMISSION~~
12

13 ~~66565. In consultation with appropriate state agencies, the~~
14 ~~commission may promote, facilitate, and administer the~~
15 ~~acquisition of voluntary private and public conservation~~
16 ~~easements or other voluntary transfers of fee or lesser interests in~~
17 ~~real property. The commission shall not have the power of eminent~~
18 ~~domain unless requested by the landowner.~~

19 ~~66566. The commission may apply for and accept federal~~
20 ~~grants or other federal funds and receive gifts, donations, rents,~~
21 ~~royalties, state funds derived from bond sales, the proceeds of~~
22 ~~taxes or funds from any other state revenue sources, or any other~~
23 ~~financial support from public or private sources.~~

24 ~~66567. (a) In consultation with the ex officio members and~~
25 ~~any advisory committees, the commission shall review proposed~~
26 ~~land uses within the counties that comprise the commission that~~
27 ~~potentially affect military flight paths. The commission shall~~
28 ~~inform any member county of proposed projects that may~~
29 ~~significantly and adversely diminish the effectiveness of the~~
30 ~~military's flight paths and the necessary commitment of open~~
31 ~~space beneath those flight paths or appropriate buffer zones that~~
32 ~~are necessary to maintain those flight paths.~~

33 ~~(b) A county, upon receipt of notification by the commission of~~
34 ~~a proposed land use that is determined to be inconsistent with the~~
35 ~~purposes for which the commission is established, shall attempt to~~
36 ~~resolve any and all identified issues with the commission. The~~
37 ~~commission shall attempt to resolve these issues with due regard~~
38 ~~for the primary land use planning responsibilities of local~~
39 ~~governments.~~

~~(c) This title does not confer any permitting authority upon the commission.~~

~~66568. The commission, with assistance from the Department of Defense, shall make available to the public in a format that is understandable and accessible, sufficient information about the exact locations of military flight paths and the land under those flight paths, along with any reasonably necessary buffer zones. The commission, with the assistance of the Department of Defense, shall prepare maps for all such flight paths that are no smaller in scale than 1:24,000, or 7.5 minute maps, in which one inch on the map represents approximately 2,000 feet.~~

~~SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.~~

CHAPTER 3. POWERS AND DUTIES

66565. *The commission may do all of the following:*

(a) Promote, facilitate, and administer the acquisition of voluntary public and private easements or other voluntary transfers of fee or lesser interests in real property consistent with the commission's goals.

(b) Acquire and dispose of any real property or interest in real property by any means, provided that the commission shall not exercise the power of eminent domain unless requested by the property owner.

(c) Apply for and accept any financial assistance from any public agency or private entity. This financial assistance includes, but is not limited to, federal, state, or local funds, gifts, donations, rents, royalties, and funds derived from state or local bond sales.

(d) Appoint, and fix the salary of, an executive director who shall have charge of administering the affairs of the commission. The executive director may enter into contracts, subject to the directions and policies of the commission. The executive director

1 shall, subject to the approval of the commission, appoint those
2 employees that are necessary to carry out the functions of the
3 commission. Until the commission engages an executive director
4 or until January 1, 2006, whichever comes first, the Director of the
5 Office of Planning and Research shall provide administrative
6 services to the commission.

7 (e) Research, prepare, publish, and disseminate public
8 information regarding the best practices to avoid conflicts between
9 civilian land uses and special use airspace.

10 (f) Provide technical assistance to property owners, counties,
11 cities, local agency formation commissions, community
12 redevelopment agencies, special districts, school districts, the
13 University of California, the California State University, and state
14 agencies, departments, boards, and commissions regarding the
15 implementation of this title.

16 (g) Adopt policies, procedures, and guidelines for the review of
17 proposed land uses below special use airspace as regulations
18 pursuant to Article 5 (commencing with Section 11346) of Chapter
19 3.5 of Part 1 of Division 3 of Title 2.

20 (h) Adopt rules and procedures necessary for its organization
21 and operation.

22 66566. (a) On or before March 1, 2005, and each March 1
23 thereafter, the commission shall adopt a budget for the fiscal year
24 that begins on July 1 of each year.

25 (b) As part of that annual budget, the commission shall
26 apportion the amount of funds necessary to pay for the
27 commission's operations among each county located within its
28 territorial jurisdiction. The commission may base each county's
29 apportionment on the county's population, assessed value, value
30 of building permits in a previous fiscal year, or any combination
31 of these factors.

32 (c) On or before July 1, 2005, and on each July 1 thereafter,
33 each county shall transmit to the commission an amount equal to
34 the county's apportionment determined pursuant to this section.

35 (d) The commission shall deposit these funds received pursuant
36 to this section and any other funds received from any other sources
37 in the Southern California Military Greenway Fund, which is
38 hereby created as a special fund in the State Treasury. Upon
39 appropriation by the Legislature, the moneys in the Southern

1 *California Greenway Fund shall be allocated to the commission*
2 *for the purposes of this title.*

3 66567. (a) *On or before June 1, 2005, and on each June 1*
4 *thereafter, the board of supervisors of a county located in the*
5 *commission's territorial jurisdiction may elect to collect a fee on*
6 *the use of real property as an alternative to transmitting funds to*
7 *the commission pursuant to Section 66566.*

8 (b) *If the board of supervisors of a county elects to collect a fee*
9 *pursuant to this section, then on and after July 1, 2005, and on each*
10 *July 1 thereafter, each county and each city within the*
11 *commission's territorial jurisdiction shall collect a fee from each*
12 *applicant for a building permit. The fee shall be equal to a specific*
13 *amount of the proposed building construction for which the*
14 *building permit is issued as determined by the local building*
15 *officials.*

16 (c) *The schedule of fees adopted by the commission pursuant to*
17 *subdivision (a) shall not exceed:*

18 (1) *Group R occupancies, as defined in the 1985 Uniform*
19 *Building Code and adopted in Part 2 (commencing with Section*
20 *2-101) of Title 24 of the California Code of Regulations, one to*
21 *three stories in height, except hotels and motels, shall be assessed*
22 *at the rate of ten dollars (\$10) per one hundred thousand dollars*
23 *(\$100,000), with appropriate fractions thereof.*

24 (2) *All other buildings shall be assessed at the rate of*
25 *twenty-one dollars (\$21) per one hundred thousand dollars*
26 *(\$100,000), with appropriate fractions thereof.*

27 (3) *The fee shall be the amount assessed under paragraph (1)*
28 *or (2), depending on the building type, or fifty cents (\$0.50),*
29 *whichever is higher.*

30 (d) *A county or a city shall not collect a fee pursuant to this*
31 *section on a building permit for a residence where the occupancy*
32 *is restricted to persons or families of very low or low income.*

33 (e) *In lieu of the requirements of subdivision (c), a county or*
34 *city may elect to include a rate of ten dollars (\$10) per one hundred*
35 *thousand dollars (\$100,000), with appropriate fractions thereof,*
36 *in its basic building permit fee for any Group R occupancy defined*
37 *in paragraph (1) of subdivision (c), and a rate of twenty-one*
38 *dollars (\$21) per one hundred thousand dollars (\$100,000), with*
39 *appropriate fractions thereof, for all other building types. A county*
40 *or city electing to collect the fee pursuant to this subdivision need*

1 *not segregate the fees in a fund separate from any fund into which*
2 *basic building permit fees are deposited.*

3 *(f) A county or city may retain up to 5 percent of the total*
4 *amount it collects pursuant this section to pay for the costs of*
5 *complying with this title.*

6 *(g) Funds collected pursuant to this section, less any amounts*
7 *retained by a county or a city pursuant to subdivision (f) shall be*
8 *transmitted to the commission for deposit in the Southern*
9 *California Military Greenway Fund.*

10 66568. *The commission shall be considered a “person” who*
11 *may file written requests pursuant to Chapter 2.7 (commencing*
12 *with Section 65090) of Division 1 of Title 7, for notices of public*
13 *hearings that affect any parcels that lie under the special use*
14 *airspace within its territorial jurisdiction.*

15 66569. *(a) On or before August 1, 2007, and on or before*
16 *August 1 in each odd-numbered year thereafter, the commission*
17 *shall prepare and distribute a biennial report of its activities in the*
18 *preceding two fiscal years.*

19 *(b) The biennial report shall describe the number and the*
20 *disposition of proposed projects referred to the commission*
21 *pursuant to Chapter 4 (commencing with Section 66570). The*
22 *biennial report may include recommendations to the Legislature*
23 *and to federal, state, and local agencies for statutory revisions and*
24 *other changes to carry out the purposes of this title.*

25 *(c) The commission shall send copies of its biennial report to*
26 *the legislative body and planning agency of each county and city*
27 *within its territorial jurisdiction, and to any other public agency,*
28 *property owner, interest group, or person that requests a copy.*

29
30 CHAPTER 4. CONFLICT AVOIDANCE AND RESOLUTION
31

32 66570. *(a) On or before July 1, 2006, the commission shall*
33 *identify the exact location of each special use airspace within the*
34 *commission’s territorial jurisdiction.*

35 *(b) This information shall be available in a format that allows*
36 *public officials, property owners, and other interested persons and*
37 *groups to readily determine whether specific parcels lie under*
38 *these special use airspaces.*

39 *(c) The commission shall make this information available in an*
40 *electronic format that is readily accessible to public officials,*

1 *property owners, and other interested persons and groups. The*
2 *commission may also make this information available in any other*
3 *format or medium that promotes public understanding of the*
4 *location of these special use airspaces.*

5 *(d) The commission shall revise this information to reflect any*
6 *changes in the location of any special use airspace not more than*
7 *10 days after the Federal Aviation Administration publishes notice*
8 *of those changes.*

9 *66571. (a) On or before July 1, 2006, the commission shall*
10 *file written notices with the legislative body and planning agency*
11 *of each county and city within its territorial jurisdiction,*
12 *identifying the real property that lies under these special use*
13 *airspaces.*

14 *(b) On and after July 1, 2006, the commission shall file written*
15 *notices with the legislative body and planning agency of each*
16 *county and city within its territorial jurisdiction of any changes in*
17 *the location of special use airspace within the commission's*
18 *jurisdiction not more than 10 days after the Federal Aviation*
19 *Administration publishes notices of those changes.*

20 *66572. (a) On and after July 1, 2006, with respect to any*
21 *parcel that lies under a special use airspace within the*
22 *commission's territorial jurisdiction, the planning agency of each*
23 *county and city shall notify the commission of all of the following:*

24 *(1) Any proposal to adopt or amend a general plan or specific*
25 *plan.*

26 *(2) Any proposal to adopt or amend a zoning ordinance, or*
27 *approve a variance from a zoning ordinance.*

28 *(3) Any application for a development project that the planning*
29 *agency has determined to be complete or any application for a*
30 *development project that has been deemed to be complete pursuant*
31 *to the Permit Streamlining Act (Chapter 4.5 (commencing with*
32 *Section 65920) of Division 1 of Title 7).*

33 *(4) Any proposal by the county or the city to acquire real*
34 *property or any interest in real property.*

35 *(b) A local agency formation commission shall notify the*
36 *commission of all of the following:*

37 *(1) Any proposal to adopt or amend a sphere of influence for a*
38 *local agency that provides nonagricultural water, sanitary sewers,*
39 *structural fire protection, or roads.*

1 (2) *The issuance of a certificate of filing for any application for*
2 *a change of organization or a reorganization for a local agency*
3 *that provides nonagricultural water, sanitary sewers, structural*
4 *fire protection, or roads.*

5 (3) *Any proposal filed by a local agency pursuant to Section*
6 *56133 to provide nonagricultural water, sanitary sewers,*
7 *structural fire protection, or roads beyond its jurisdictional*
8 *boundaries.*

9 (c) *A community redevelopment agency shall notify the*
10 *commission of all of the following:*

11 (1) *Any proposal to adopt or amend a redevelopment plan.*

12 (2) *Any proposal by the agency to acquire any real property or*
13 *any interest in real property.*

14 (d) *A special district or a school district shall notify the*
15 *commission of any proposal by the district to acquire any real*
16 *property or any interest in real property.*

17 (e) *A state agency, department, board, or commission shall*
18 *notify the commission of any proposal by that agency, department,*
19 *board, or commission, to acquire any real property or any interest*
20 *in real property.*

21 (f) *The University of California and the California State*
22 *University shall notify the commission of any proposal by the*
23 *university to acquire any real property or any interest in real*
24 *property.*

25 (g) *The State Clearinghouse within the Office of Planning and*
26 *Research shall notify the commission of the receipt of any*
27 *document prepared pursuant to the California Environmental*
28 *Quality Act (Division 13 (commencing with Section 21000) of the*
29 *Public Resources Code).*

30 66573. (a) *Within 15 days of receiving a notice pursuant to*
31 *Section 66572, the executive director shall determine whether the*
32 *proposed action may significantly and adversely diminish the*
33 *effectiveness of the military's use of the special use airspace.*

34 (b) *If the executive director determines that a proposed action*
35 *may significantly and adversely diminish the effective of the*
36 *military's use of a special use airspace, the executive director shall*
37 *also identify the specific characteristics of the proposed action that*
38 *may significantly and adversely diminish the effectiveness of the*
39 *military's use of the special use airspace. The executive director*

1 *may suggest changes to the proposed action that would minimize*
2 *or eliminate the proposed action's significant and adverse effects.*

3 *(c) If the executive director determines that a proposed action*
4 *may significantly and adversely diminish the effectiveness of the*
5 *military's use of a special use airspace, the executive director shall*
6 *promptly transmit the written determination to the entity which*
7 *notified the commission pursuant to Section 66572. The executive*
8 *director shall also transmit a copy of the written determination to*
9 *the planning agency of the county or city in which the proposed*
10 *action is located.*

11 *66574. (a) With respect to any proposed action which the*
12 *executive director has determined may significantly and adversely*
13 *diminish the effectiveness of the military's use of a special use*
14 *airspace, the executive director and the entity shall use the conflict*
15 *resolution processes established pursuant to Section 65404.*

16 *(b) Notwithstanding subdivision (a), the executive director and*
17 *the entity may use the mediation proceedings established pursuant*
18 *to Chapter 9.3 (commencing with Section 66030) of Division 1 of*
19 *Title 7. Without the necessity of filing an action in a superior court,*
20 *the executive director or the entity may request the presiding judge*
21 *of the superior court of the county in which the proposed action is*
22 *located to invite the parties to consider resolving their dispute*
23 *pursuant to that chapter.*

24 *66575. Notwithstanding the timelimits imposed by any other*
25 *provision of law, no public agency shall act on any proposal that*
26 *the executive director has determined may significantly and*
27 *adversely diminish the effectiveness of the military's use of a*
28 *special use airspace until the entity and the executive director have*
29 *completed the conflict resolution processes as required by Section*
30 *66574. All timelimits with respect to the proposal shall be tolled*
31 *until the conflict resolution process is completed.*

32 *66576. (a) If, at the end of the conflict resolution processes or*
33 *the mediation proceedings entered into pursuant to Section 66574,*
34 *the commission determines that the final proposal may still*
35 *significantly and adversely diminish the effectiveness of the*
36 *military's use of a special use airspace, the entity shall not approve*
37 *the proposal unless the entity's legislative body or governing board*
38 *finds, based on substantial evidence in the record and based on a*
39 *vote of four-fifths of the membership of the legislative body or*
40 *governing board, each of the following:*

1 (1) *The entity has engaged in conflict resolution processes or*
2 *mediation procedures in good faith.*

3 (2) *The proposal will not result in hazards to the military's use*
4 *of the special use airspace, including, but not limited to, physical*
5 *hazards to aircraft.*

6 (3) *The proposal will not result in hazards to life and property*
7 *for civilian uses located on real property beneath the special use*
8 *airspace, including, but not limited to, torts, liabilities, and*
9 *nuisances.*

10 (4) *There are no feasible means to mitigate or avoid conflicts*
11 *between the military's use of the special use airspace and the*
12 *proposal.*

13 (5) *Disapproval of the proposal would result in a prohibited*
14 *taking of private property.*

15 (b) *With respect to a state agency or department that does not*
16 *have a legislative body or governing board to make the findings*
17 *required by subdivision (a), then with the approval of the*
18 *Governor, the agency's secretary or the department's director may*
19 *make those findings.*

20 SEC. 5. *Section 33327.5 is added to the Health and Safety*
21 *Code, to read:*

22 33327.5. *With respect to any parcel located beneath a special*
23 *use airspace, as defined in Section 66552 of the Government Code,*
24 *within the territorial jurisdiction of the Southern California*
25 *Military Greenway Commission, whenever an agency receives a*
26 *preliminary redevelopment plan pursuant to Section 33325, the*
27 *agency shall notify the Southern California Military Greenway*
28 *Commission, as required by Title 7.15 (commencing with Section*
29 *66550) of the Government Code.*

30 SEC. 6. *No reimbursement is required by this act pursuant to*
31 *Section 6 of Article XIII B of the California Constitution because*
32 *a local agency or school district has the authority to levy service*
33 *charges, fees, or assessments sufficient to pay for the program or*
34 *level of service mandated by this act, within the meaning of Section*
35 *17556 of the Government Code.*